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EXTRAORDINARY

PART II—Section 1

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MINISTRY OF LAW

New Delhi, the 15th March, 1952

The following Acts of Parliament received the assent of the President on the 15th March, 1952 and are hereby published for general information.—

**THE REQUISITIONING AND ACQUISITION OF
IMMOVABLE PROPERTY ACT, 1952**

No. XXX of 1952

[14th March, 1952]

An Act to provide for the requisitioning and acquisition of immovable property for the purposes of the Union.

Be it enacted by Parliament as follows:—

1. **Short title, extent and duration.**—(1) This Act may be called the Requisitioning and Acquisition of Immovable Property Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall remain in force for a period of six years from the date of the commencement of this Act.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “award” means any award of an arbitrator made under section 8;

(b) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

(c) “landlord” means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(d) the expression "person interested", in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;

(e) "premises" means any building or part of a building and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "property" means immovable property of every kind and includes any rights in or over such property;

(h) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property.—(1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority—

(a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and

(b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof—

(a) which is *bona fide* used by the owner thereof as the residence of himself or his family, or

(b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under subsection (1), the competent authority shall provide such tenant with alternative accommodation which, in its opinion, is suitable.

4. Power to take possession of requisitioned property.—(1) Where any property has been requisitioned under section 8, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. Rights over requisitioned property.—(1) All property requisitioned under section 8, shall be used for such purposes as may be mentioned in the notice of requisition.

(2) Where any premises are requisitioned under section 8, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. Release from requisitioning.—(1) The Central Government may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Provided that where the purposes for which any requisitioned property was being used cease to exist, the Central Government shall, unless the property is acquired under section 7, release that property, as soon as may be, from requisition.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Central Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be

subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Central Government, be void:

Provided that the benefit of this sub-section shall not be available to the Central Government where the injury to such property is caused by any wrongful act or default of that Government.

7. Power to acquire requisitioned property.—(1) Where any property is subject to requisition, the Central Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this section:

Provided that before issuing such notice, the Central Government shall call upon the owner of, or any other person who, in the opinion of the Central Government, may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Central Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Central Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

8. Principles and method of determining compensation.—(1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.

(2) The amount of compensation payable for the requisitioning of any property shall consist of—

(a) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:—

(i) pecuniary loss due to requisitioning;

(ii) expenses on account of vacating the requisitioned premises;

(iii) expenses on account of reoccupying the premises upon release from requisition; and

(iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

(3) The compensation payable for the acquisition of any property under section 7 shall be—

(a) the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition, whichever is less.

9. Payment of compensation.—The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

10. Appeals from orders of requisitioning.—(1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 8 may, within twenty-one days from the date of service of the order, prefer an appeal to the Central Government:

Provided that the Central Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Central Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Central Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Central Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

11. Appeals from awards in respect of compensation.—Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. Competent authority and arbitrator to have certain powers of civil courts.—The competent authority and the arbitrator appointed under section 8, while holding an inquiry or, as the case may be, arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1909) in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for examination of witnesses.

13. Power to obtain information.—The Central Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 7 or section 8, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

14. Power to enter and inspect.—The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

15. Service of notice and orders.—(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette; and

(b) in the case of any notice or order affecting an individual corporation or firm be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means,

(iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. Easement not to be disturbed.—No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. Delegation of powers.—(1) The Central Government may, by notification in the Official Gazette, direct that the powers exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government or the State Government.

(2) All notifications issued under sub-section (1) shall be laid, as soon as may be, before Parliament.

18. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

19. Bar of jurisdiction of civil courts.—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20. Penalty for offences.—Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

21. Certain persons to be public servants.—The competent authority, every arbitrator and every officer empowered by the Central Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

22. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6;

(b) the procedure to be followed in arbitration proceedings and appeals under this Act;

(c) the principles to be followed in determining the amount of compensation and method of payment of such compensation;

(d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;

(e) the manner of service of notices and orders;

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

23. Validation of certain requisitions and acquisitions.—(1) All immovable property which purports to have been requisitioned by a State Government for any public purpose, being a purpose of the Union, under any Provincial or State Act and which, immediately before the 25th day of January, 1952 was used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, as from that date, be deemed to be property duly requisitioned under section 8 of this Act, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Act, and all the provisions of this Act shall apply accordingly:

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the 25th day of January, 1952 and in force immediately before that date, shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after that date.

(2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by a State Government for any public purpose, being a purpose of the Union, under any enactment for the time being in force in that State and which, immediately before such commencement, was used or occupied by the Central Government or by an officer or authority subordinate to that Government shall, notwithstanding any defect in, or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of the acquisition.

24. Repeals and savings.—(1) The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947) and the Requisitioning and Acquisition of Immovable Property Ordinance, 1952 (III of 1952) are hereby repealed.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Acts or the said Ordinance shall, on the commencement of this Act, be deemed to be property requisitioned under section 3 of this Act, and all the provisions of this Act shall apply accordingly:

Provided that—

(a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under either of the said Acts or the said Ordinance shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under either of the said Acts or the said Ordinance shall, in so far as anything was done or action was taken.

25. Amendment of Act XXVII of 1950.—The following amendments shall be made in the Government Premises (Eviction) Act, 1950, namely:—

(1) In sub-section (2) of section 1, for the words "the States of Jammu and Kashmir and Delhi", the words "the State of Jammu and Kashmir" shall be substituted.

(2) For clause (b) of section 2, the following clause shall be substituted, namely:—

"(b) 'Government premises' means any premises or land belonging to, or taken on lease or requisitioned by, the Central Government or requisitioned by the competent authority under the Requisitioning and Acquisition of Immovable Property Act, 1952, and, in relation to the State of Delhi, includes any premises or land belonging to any municipality in Delhi or any land belonging to the Improvement Trust, Delhi, whether such land is in the possession of, or leased out by, the Improvement Trust.

(3) In section 3, for the words "the premises" wherever they occur, the words "the Government premises" shall be substituted.

(4) For section 4, the following section shall be substituted, namely:—

"4. *Power to recover rent or damages in respect of Government premises as arrears of land revenue.*—(1) Subject to any rules that may be made in this behalf by the Central Government, by notification in the Official Gazette, any sum due by way of rent in respect of any Government premises which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

(2) Where any person is in unauthorised occupation of any Government premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the Government premises as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay the damage within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue."

(5) In sub-section (2) of section 10—

(i) after clause (b), the following clause shall be inserted, namely:—

"(bb) the circumstances under which rent in respect of Government premises may be recovered as an arrear of land revenue;"

(ii) to clause (c), the words "and the matters which may be taken into account in assessing such damages" shall be inserted;

(iii) after clause (c), the following clause shall be inserted, namely:—

"(cc) the manner of service of any notice under this Act;"

THE PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS ACT, 1952

No. XXXI OF 1952

[14th March, 1952]

An Act to regulate certain matters relating to or connected with elections to the offices of President and Vice-President of India.

BE it enacted by Parliament as follows:—

PART I

PRELIMINARY

1. Short title.—This Act may be called the Presidential and Vice-Presidential Elections Act, 1952.

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “article” means an article of the Constitution;
- (b) “election” means a Presidential election or Vice-Presidential election;
- (c) “Election Commission” means the Election Commission appointed by the President under article 324;
- (d) “elector”, in relation to a Presidential election, means a member of the electoral college referred to in article 54, and in relation to a Vice-Presidential election, means a member of either House of Parliament;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “Presidential election” means an election to fill the office of the President of India;
- (g) “Returning Officer” includes an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 3;
- (h) “Vice-Presidential election” means an election to fill the office of the Vice-President of India.

PART II

CONDUCT OF PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS

3. Returning Officer and his assistants.—(1) For the purposes of each election the Election Commission shall, in consultation with the Central Government, appoint a Returning Officer who shall have his office in New Delhi and may also appoint one or more Assistant Returning Officers.

(2) Subject to rules made under this Act, every Assistant Returning Officer shall be competent to perform all or any of the functions of the Returning Officer.

4. Appointment of dates for nominations, etc.—(1) The Election Commission shall, by notification in the Official Gazette, appoint for every election—

(a) the last date for making nominations which shall be a date not later than the fourteenth day and not earlier than the eighth day after the date of publication of the notification under this sub-section;

(b) a date for the scrutiny of nominations which shall be a date not later than the third day after the last date for making nominations;

(c) the last date for the withdrawal of candidatures which shall be the third day after the date for the scrutiny of nominations;

(d) the date on which a poll shall, if necessary, be taken, which shall be a date not earlier than the fifteenth day after the last date for the withdrawal of candidatures.

(2) In the case of the first Presidential and Vice-Presidential elections, the notifications under sub-section (1) shall be issued as soon as may be after both Houses of Parliament have been constituted.

(3) In the case of an election to fill a vacancy caused by the expiration of the term of office of the President or Vice-President, the notification under sub-section (1) shall be issued on, or as soon as conveniently may be after, the sixtieth day before the expiration of the term of office of the outgoing President or Vice-President, as the case may be, and the dates shall be so appointed under the said sub-section that the election will be completed at such time as will enable the President or the Vice-President thereby elected to enter upon his office on the day following the expiration of the term of office of the outgoing President or Vice-President, as the case may be.

(4) In the case of an election to fill a vacancy in the office of President or Vice-President occurring by reason of his death, resignation or removal or otherwise, the notification under sub-section (1) shall be issued as soon as may be after the occurrence of such vacancy.

5. Nomination of candidates.—(1) Any person may be nominated as a candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

(2) Each candidate shall be nominated by a nomination paper completed in the prescribed form and subscribed by the candidate himself as assenting to the nomination and by two electors as proposer and seconder.

6. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered before three o'clock in the afternoon on the date fixed under clause (c) of sub-section (1) of section 4, to the Returning Officer either by such candidate in person or by his proposer or seconder who has been authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

7. Death of candidate before poll.—If a candidate, whose nomination has been made and is found to be in order on scrutiny, dies after the time fixed for nomination and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll:

Provided further that no person who has under sub-section (1) of section 6 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

8. Procedure in contested and uncontested elections.—If after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 6—

(a) there is only one candidate who has been validly nominated and has not withdrawn his candidature in the manner and within the time specified in that sub-section, the Returning Officer shall forthwith declare such candidate to be duly elected to the office of President or Vice-President, as the case may be;

(b) the number of candidates who have been duly nominated but have not so withdrawn their candidatures exceeds one, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken;

(c) there is no candidate who has been duly nominated and has not so withdrawn his candidature, the Returning Officer shall report the fact to the Election Commission and thereafter all the proceedings in relation to the election shall be commenced afresh and for that purpose the Election Commission shall cancel the notification issued under sub-section (1) of section 4 in respect of such election and issue another notification under that sub-section appointing the dates referred to in that sub-section for the purposes of such fresh election.

9. Manner of voting at elections.—At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

10. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate and one representative of each candidate authorised in writing by the candidate, shall have a right to be present at the time of counting.

11. Declaration of results.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

12. Report of the result.—As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the Central Government and the Election Commission, and the Central Government shall cause to be published in the Official Gazette the declaration containing the name of the person elected to the office of President or Vice-President, as the case may be.

PART III

DISPUTES REGARDING ELECTIONS

13. Definitions.—In this Part, unless the context otherwise requires—

(a) “candidate” means a person who has been or claims to have been duly nominated as a candidate at an election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(b) “costs” means all costs, charges and expenses of, or incidental to, a trial of an election petition;

(c) “returned candidate” means a candidate whose name has been published under section 12 as duly elected.

14. Election petitions.—(1) No election shall be called in question except by an election petition presented to the Supreme Court in accordance with the provisions of this Part and of the rules made by the Supreme Court under article 145.

(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 to the Supreme Court by any candidate at such election or by ten or more electors, joined together as petitioners.

(3) Any such petition may be presented at any time after the date of publication of the declaration containing the name of the returned candidate at the election under section 12 but not later than thirty days from the date of such publication.

15. Form of petitions, etc. and procedure.—Subject to the provisions of this Part, rules made by the Supreme Court under article 145 may regulate the form of election petitions, the manner in which they are to be presented, the persons who are to be made parties thereto, the procedure to be adopted in connection therewith and the circumstances in which petitions are to abate, or may be withdrawn, and in which new petitioners may be substituted, and may require security to be given for costs.

16. Relief that may be claimed by the petitioner.—A petitioner may claim either of the following declarations:—

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected.

17. Orders of the Supreme Court.—(1) At the conclusion of the trial of the election petition, the Supreme Court shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

(2) At the time of making an order under sub-section (1), the Supreme Court shall also make an order fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid.

18. Grounds for declaring the election of a returned candidate to be void.—(1) If the Supreme Court is of opinion—

(a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the connivance of the returned candidate; or

(b) that the result of the election has been materially affected—

(i) by reason that the offence of bribery or undue influence at the election has been committed by any person who is neither the returned candidate nor a person acting with his connivance, or

(ii) by the improper reception or refusal of a vote, or

(iii) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act; or

(c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate or of any other candidate who has not withdrawn his candidature has been wrongly accepted;

the Supreme Court shall declare the election of the returned candidate to be void.

(2) For the purposes of this section, the offences of bribery and undue influence at an election have the same meaning as in Chapter IX-A of the Indian Penal Code (Act XLV of 1860).

19. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged an election petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Supreme Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes, the Supreme Court shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected:

Provided that the petitioner or such other candidate shall not be declared to be duly elected if it is proved that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election.

20. Transmission of orders to the Central Government and its publication.—The Supreme Court shall, after announcing the orders made under section 17, send a copy thereof to the Central Government, and on receipt of such copy the Central Government shall forthwith cause the order to be published in the Official Gazette.

PART IV

MISCELLANEOUS

21. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the maintenance of a list of members of the electoral college referred to in article 54 with their addresses corrected up to date for the purposes of Presidential elections;

(b) the maintenance of a list of members of both Houses of Parliament with their addresses corrected up to date for the purposes of Vice-Presidential elections;

(c) the powers and duties of a Returning Officer and the performance by any officer appointed to assist the Returning Officer of any function of the Returning Officer;

(d) the form and manner in which nominations may be made and the procedure to be followed in respect of the presentation of nomination papers;

(e) the scrutiny of nominations and, in particular, the manner in which such scrutiny shall be conducted and the conditions and circumstances under which any person may be present or may enter objections thereat;

(f) the publication of a list of valid nominations,

(g) the place and hours of polling, the manner in which votes are to be given and the procedure as to voting to be followed at elections;

(h) the scrutiny and counting of votes including cases in which a re-count of the votes may be made before the declaration of the result of the election;

(i) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

(j) any other matter required to be prescribed by this Act.

22. Maintenance of secrecy of voting.—(1) Every officer, clerk or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

23. Jurisdiction of civil courts barred.—Save as provided in Part III, no civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

THE CONTEMPT OF COURTS ACT, 1952

No. XXXII of 1952

[14th March, 1952]

An Act to define and limit the powers of certain courts in punishing contempts of courts.

Enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Contempt of Courts Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definition.—In this Act, "High Court" means the High Court for a Part A State or a Part B State, and includes the Court of the Judicial Commissioner in a Part C State.

3. Power of High Court to punish contempts of subordinate courts.—

(1) Subject to the provisions of sub-section (2), every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself.

(2) No High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code (Act XLV of 1860).

4. Limit of punishment for contempt of court.—Save as otherwise expressly provided by any law for the time being in force, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court:

Provided further that notwithstanding anything elsewhere contained in any law for the time being in force, no High Court shall impose a sentence in excess of that specified in this section for any contempt either in respect of itself or of a court subordinate to it

5. Power of High Court to try offences committed or offenders found outside jurisdiction.—A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction and whether the person alleged to be guilty of the contempt, is within or outside such limits.

6. Repeals and savings.—(1) The Contempt of Courts Act, 1926 (XII of 1926), and the enactments specified in the Schedule are hereby repealed.

(2) Section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to the repeal of any of the laws specified in the Schedule as it applies to the repeal of the Contempt of Courts Act, 1926 (XII of 1926).

THE SCHEDULE

(See section 6)

<i>Short title and description of enactment</i>	<i>Extent of repeal</i>
1. The Contempt of Courts Act, IV of 1955F., as in force in the State of Hyderabad.	The whole.
2. The Indore Contempt of Courts Act No. V of 1930, as in force in the State of Madhya Bharat.	The whole.
3. The Contempt of Courts Act, Gwalior State, Samvat 2001, as in force in the State of Madhya Bharat.	The whole.
4. The Contempt of Courts Act, 1930 (XI of 1930), as in force in the State of Mysore.	The whole.
5. The Contempt of Courts Act, S. 1991 (V of S. 1991), as in force in the Patiala and East Punjab States Union.	The whole.
6. The Patiala and East Punjab States Union Judicature Ordinance, S. 2005 (X of S. 2005).	Section 38.

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| 7. The Contempt of Courts Act, 1926 (XII of 1926), as in force in the State of Rajasthan before the commencement of this Act. | The whole. |
| 8. The Contempt of Courts Act, 1926 (XII of 1926), as in force in the State of Saurashtra before the commencement of this Act. | The whole. |
| 9. The High Court of Judicature Saurashtra State Ordinance, 1948 (Saurashtra Ordinance II of 1948). | Section 31. |
| 10. The Cochin Contempt of Courts Act (XXXII of 1911), as in force in the State of Travancore-Cochin. | The whole. |

THE TERRITORIAL ARMY (AMENDMENT) ACT, 1952 No. XXXIII OF 1952

[14th March, 1952]

An Act further to amend the Territorial Army Act, 1948.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Territorial Army (Amendment) Act, 1952.

2. **Insertion of new sections 7A and 7B in Act LVI of 1948.**—After section 7 of the Territorial Army Act, 1948 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

“7A. *Reinstatement in civil employ of persons required to perform military service.*—(1) It shall be the duty of every employer by whom a person who is required to perform military service under section 7 was employed to reinstate him in his employment on the termination of the military service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as he thinks suitable, or

(c) requiring him to pay to such person by way of compensation for failure or inability to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(3) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court

by which an employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of his military service.

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually required to perform military service under section 7, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of orders requiring him to perform military service under this Act.

7B. *Preservation of certain rights of persons required to perform military service.*—When any person required to perform military service under section 7 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in military service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

3. Amendment of section 14, Act LVI of 1948.—In sub-section (2) of section 14 of the principal Act, after clause (d), the following clauses shall be inserted, namely:—

“(dd) specify the authority for the purpose of the proviso to sub-section (1) of section 7A and the manner in which any inquiry may be held by him;

(ddd) define the rights under section 7B.”.

THE PREVENTIVE DETENTION (AMENDMENT) ACT, 1952

No. XXXIV OF 1952

[14th March, 1952]

An Act further to amend the Preventive Detention Act, 1950.

Enacted by Parliament as follows:—

1. Short title.—This Act may be called the Preventive Detention (Amendment) Act, 1952.

2. Amendment of section 1, Act IV of 1950.—In sub-section (3) of section 1 of the Preventive Detention Act, 1950 (hereinafter referred to as the principal Act), for the word “April” the word “October” shall be substituted.

3. Validity and duration of detention in certain cases.—Every detention order confirmed under section 11 of the principal Act and in force immediately before the commencement of this Act shall have effect as if it had been confirmed under the provisions of the principal Act as amended by this Act; and accordingly, where the period of detention is either not specified in such detention order or specified (by whatever form of words) to be for the duration or until the expiry of the principal Act or until the 31st day of March, 1952, such detention order shall continue to remain in force for so long as the principal Act is in force, but without prejudice to the power of the appropriate Government to revoke or modify it at any time.

K. V. K. SUNDARAM,

Secretary.

